

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

08-CR-00010-PJS-FLN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	JUDGE PATRICK J. SCHILTZ
)	
v.)	
)	MAGISTRATE JUDGE
)	FRANKLIN L. NOEL
FRANCIS LEROY McLAIN,)	
)	
Defendant.)	
_____)	

**MOTION TO DISMISS INDICTMENT FOR FAILURE TO COMPLY
WITH FEDERAL RULE OF CRIMINAL PROCEDURE 6(b)(1) AND (2)**

COMES now Rick E. Mattox, court-appointed Attorney for the Defendant in the above-entitled action, Francis Leroy McLain, and moves this Court to dismiss the indictment against him as there is no way for Defendant to challenge the legal qualifications of the grand jurors who indicted him for the reason that the Government keeps no record of those who voted to indict.

Defendant is not, at this time, challenging jury selection procedure; he is challenging individual juror qualifications, though he is well aware that the U.S. Attorney's Office will attempt to change and confuse the issue in their opposition to this motion.

See Memorandum of Law in Support, attached hereto.

WHEREFORE, defendant Francis Leroy McLain moves this Court to dismiss the indictment against him and order the Government to go back to the grand jury and *do it right*.

Date: March 27, 2008

Respectfully submitted by and on behalf
of Defendant Francis Leroy McLain

s/Rick E. Mattox

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